REMARKS

Claims 1-51 are pending herein. Claims 1, 18 and 35 have been amended. Applicants request reconsideration of the present application in view of the amendments and following remarks.

Applicants' representative thanks the Examiner for granting a telephonic interview on April 6, 2006. During the interview, proposed amendments to the independent claims to clarify differences between the claimed invention and the cited references were discussed. The Examiner kindly indicated that the proposed amendments overcome the obviousness rejections based on U.S. Patent No. 6,112,182 to Akers et al. (the "Akers reference") in view of U.S. Patent No. 6,170,746 to Brook et al. (the "Brook reference"), and further in view of U.S. Patent No. 6,671,563 to Engelson et al. (the "Engelson reference"). However, the Examiner indicated that he believed the Engelson reference alone was relevant in view of a discrepancy checking feature discussed therein. In response, Applicants' representative noted differences between the claimed invention and the discrepancy checking feature of Engelson. Applicants' have amended the claims in accordance with the proposed amendments to clarify differences between the claimed invention and the cited references. As such, Applicants respectfully submit that the pending claims are now in condition for allowance.

Amendments to the Claims

Claims 1, 18, and 35 have been amended in this Amendment. Care has been exercised to avoid the introduction of new matter. Support for the amendments to claims 1, 18, and 35 may be found in the Specification, for example, at p. 2, lines 17-18; p. 4, lines 15-16; p. 5, lines 19-24; p. 6, lines 3-7; and p. 10, line 17 through p. 11, line 4.

Rejections based on 35 U.S.C. § 103

A. Applicable Authority

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP § 2143 through § 2143.03. In order "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)". *See* MPEP § 2143. Further, in establishing a *prima facie* case of obviousness, the initial burden is placed on the Examiner. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972, (Bd. Pat App. & Inter. 1985)." *Id. See also* MPEP § 706.02(j) and § 2142.

B. Rejections based on Akers, Brook, and Engelson

Claims 1-51 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Akers reference in view of the Brook reference, and further in view of the Engelson reference. As the Akers, Brook, and Engelson references, either alone or in combination, fail to teach or suggest all the limitations of the rejected claims, and there is no suggestion or

motivation to combine or modify the references to achieve the claimed invention, Applicants respectfully traverse this rejection, as hereinafter set forth.

Independent claim 1, as amended herein, recites a computer programmed method for providing one or more medication administration comments for preventing medication administration errors, wherein the one or more medication administration comments are provided at a place of administration of a medication in a hospital setting. The method comprises accepting a medication administrator identification for a medication administrator and accepting a patient identification for a patient from the medication administrator. The method further comprises displaying a graphical user interface listing one or more medications scheduled for administration to the patient and accepting the selection of one of the listed medications, the selected medication corresponding with a medication to be administered to the patient by the medication administrator. It is determined whether a condition for a compliance rule has been satisfied, where the compliance rule relates to the selected medication and has one or more associated medication administration comments for preventing medication administration errors. At the place of administration of the medication in a hospital setting, the one or more medication administration comments associated with the compliance rule are displayed on a display device when the condition has been satisfied. Displaying the one or more medication administration comments associated with the compliance rule at the place of administration of the medication in a hospital setting enables hospitals to reduce medication errors by electronically providing valuable and comprehensive medication information needed to improve the safety and quality of the care of the patient at the time and place the medication is to be actually administered to the patient.

By way of contrast, the Akers reference teaches a pharmacy computer management system 102, linking process 104 and pharmacist care service management system 106 carried out by a data processing system or machine such as a specially programmed computer 202. The specially programmed computer 202 is located in a pharmacy or near a point of sale. *See Akers*, column 3, lines 3-5. The pharmacist care service management system 106 includes a complementary care process 108. The complementary care process 108 enables healthcare related actions to be triggered under user-defined conditions during execution of a prescription filling process. The actions triggered may include supplemental instructions relating to the use of the drug. *See id.*, column 4, lines 18-31. The actions are displayed by the computer 202 which is located in a pharmacy or near the point of sale in a queue to the pharmacist. *See id.*, column 4, lines 33-36 and column 5, lines 55-57. Furthermore, the Akers reference teaches that the pharmacist care processes 106 are used in connection with administration of healthcare services that are not rendered under the immediate supervision of a doctor. *See id.*, column 3, lines 48-51.

As such, the Akers reference does not teach or suggest displaying, at the place of administration of the medication in a hospital setting, one or more medication administration comments associated with the compliance rule when the condition has been satisfied. Rather, the Akers reference teaches displaying details of actions listed in the patient care action record in a queue to a pharmacist on a data processing device or computer located in the pharmacy near or at the point of sale. A pharmacist in the pharmacy or near the point of sale is not located at the place of administration of the medication in a hospital setting, such as at the bedside of the patient.

The specification of the present application discusses that medication errors may occur at a number of different stages of the medication use process, including physician prescribing, order transcription, drug preparation, drug dispensing, and administration of the medication to the patient. *See specification*, p. 3, lines 6-8. Applicants recognized that one of the last chances to prevent a medication error is when the medication is to be administered to the patient. *See id.*, p. 4, lines 15-16. Accordingly, the claimed invention is directed to providing medication administration comments to prevent medication administration errors at the place of administration of the medication. In contrast, the Akers reference is directed specifically to providing supplemental healthcare services in a pharmacy setting (i.e., the place of drug preparation and/or drug dispensing). The Akers reference simply fails to teach or suggest providing medication administration comments at the place of administration of the medication.

Further, the Brook reference also does not teach nor suggest displaying, at the place of administration of a medication in a hospital setting, one or more medication administration comments associated with a compliance rule when the condition has been satisfied. Rather, the Brook reference teaches a system for tracking drugs in a hospital. The system of the Brook reference uses a portable barcode scanning and printing system to reduce errors in the quantity of a drug being added or removed from inventory at a location. The Brook reference does not teach nor suggest displaying one or more medication administration comments associated with one or more compliance rules being satisfied at the place of administration of a medication in a hospital setting.

Page 3 of the Office Action acknowledges that neither the Akers reference nor the Brook reference teach or suggest displaying a comment at the place of administration (e.g., bedside of the patient) in a hospital setting. However, the Office Action attempts to cure this

deficiency by referring to the Engelson reference. The Engelson reference discusses a care management system for managing the administration of care to patients. *See Engelson*, col. 2, lines 31-34. The system provides for automatically verifying that the right medication is being dispensed to the right patient in the right dosage via the right delivery route at the right time by maintaining a database of information regarding the patient. *See id.*, col. 2, lines 54-59. In operation, a nurse or technician administering a medication to the patient may identify the patient and the medication to the system (e.g., by scanning a barcode associated with the patient and a barcode associated with the medication). *See id.*, col. 13, lines 22-32. The system analyzes the data to verify that the right medication is being given to the right patient in the right dose by the right route and at the right time. *See id.*, col. 13, lines 49-54. If a discrepancy is determined, the system provides an alert. *See id.*, col. 13, lines 54-60.

Applicants respectfully submit that there is no suggestion or motivation to modify the Akers reference with the Engelson reference because the modification would render the invention in the Akers reference unsatisfactory for its intended purpose. "If [a] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)." MPEP § 2143.01. The intended purpose of the system in the Akers reference is to provide supplemental healthcare services in a pharmacy setting when drugs are dispensed or otherwise sold. As noted in the Akers reference, a patient may often have "more frequent contact [with a pharmacist] than with other healthcare providers." *See Akers*, col. 2, lines 20-22. As such, the invention in the Akers reference is specifically directed to providing supplement healthcare services in a pharmacy at or near a point of sale. The Office Action attempts to modify the Akers reference with the Engelson reference

to provide comments at the bedside of a patient (e.g., at the place of administration of a medication), which would require the invention in the Akers reference to operate outside of the pharmacy setting. However, the system in the Akers reference intentionally provides supplemental healthcare services in a pharmacy setting where drugs are dispensed or otherwise sold by a pharmacist. Accordingly, Applicants respectfully submit that the modification would render the system in the Akers reference unsatisfactory for its intended purpose, and thus there is no suggestion or motivation to modify the Akers reference with the Engelson reference.

Similarly, Applicants respectfully submit that there is no suggestion or motivation to modify the Akers reference with the Engelson reference because the modification would change the principle of operation of the system in the Akers reference. "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)." MPEP § 2143.01. The principle of operation of the system in the Akers reference is to provide supplemental healthcare services in pharmacy setting. To modify the Akers reference with the Engelson reference would destroy the principle of operation of the Akers system because it would no longer be functioning in the pharmacy setting. Accordingly, Applicants respectfully submit that the modification would change the principle of operation of the system in the Akers reference, and thus there is no suggestion or motivation to modify the Akers reference with the Engelson reference.

In the telephonic interview on April 6, 2006, the Examiner indicated that he believed that the Engelson reference alone was relevant. In particular, the Examiner noted the discrepancy checking feature discussed in the Engelson reference, in which the system receives

an identification of a patient and an identification of a medication to be administrated and automatically determines whether a discrepancy exists (e.g., whether the medication is one scheduled to be administered to the patient). However, the present invention is not directed to automatic discrepancy checking as discussed in the Engelson reference. Instead, the claimed invention is directed to providing a medication administration comment when a condition based on a medication's property is satisfied. As discussed in the specification of the present application, medication administration comments may be provided: (1) when another medication is similar in appearance to the selected medication; (2) when another medication sounds similar to the selected medication; (3) when the selected medication requires a physical act by the patient; (4) when there are dosage requirements associated with the selected medication; (5) when there are monitoring or other health equipment requirements associated with the selected medication; (6) when there are route requirements associated with the selected medication; (7) when there are dilution requirements associated with the selected medication; (8) when the selected medication or a dosage is lethal or contains a toxic substance; and (9) when there are tests requirements associated with the selected medication. Moreover, the method of independent claim 1 specifically includes displaying a list of one or more medications scheduled to be administered to a patient and receiving a selection of one of the listed medications. Such recitations preclude any type of automatic discrepancy checking as discussed in the Engelson reference as a medication is simply selected from a list of scheduled medications.

Accordingly, the Engelson reference fails to teach or suggest multiple limitations of independent claim 1. For example, the Engelson reference fails to teach or suggest displaying a graphical user interface listing one or more medications scheduled for administration to a patient. Additionally, the Engelson reference fails to teach or suggest accepting the selection of

one of the listed medications, the selected medication corresponding with a medication to be administered to the patient by a medication administrator. Instead, the Engelson reference receives input regarding the medication to be administered (e.g., by scanning a bar code associated with the medication) such that the medication can be compared against data stored by the system to detect any discrepancies between what is being administered and what is scheduled for administration. The Engelson reference also fails to teach or suggest determining if a condition for a compliance rule has been satisfied, wherein the compliance rule relates to the selected medication and has one or more associated medication administration comments for prevent medication administration errors. Further, the Engelson reference fails to teach or suggest displaying at the place of administration of the mediation in a hospital setting, on a display device, the one or more medication administration comments associated with the compliance rule when the condition has been satisfied.

In view of the above, it is respectfully submitted that the Akers, Brook, and Engelson references, either alone or in combination fail to teach or suggest all of the limitations of independent claim 1. Additionally, there is no suggestion or motivation to combine or otherwise modify the references to achieve the claimed invention. As such, a *prima facie* case of obviousness cannot be established for independent claim1, as amended herein, based upon the cited combination. *See*, *In re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991). Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 1 is requested. Furthermore, as claims 2-17 depend directly or indirectly from claim 1, Applicants request withdrawal of the 103(a) rejection of these claims as well.

Independent claim 18, as amended herein, recites a system for providing one or more medication administration comments for preventing medication administration errors,

wherein the one or more medication administration comments are provided at a place of administration of a medication in a hospital setting. The system comprises (a) a computer having a memory and a processor; (b) a compliance rule stored in said memory, wherein the compliance rule is associated with a medication and maintains a condition and one or more medication administration comments relating to the medication for preventing medication administration errors; (c) a program executing on said computer and (d) a graphical user interface (GUI) executing on said computer. The program accepts a medication administration identification for a medication administrator and accepts a patient identification for a patient from the medication administrator. The program further accepts a selection of a listed medication, the selected medication corresponding with a medication to be administered to the patient by the medication administrator. The program also determines if the condition for the compliance rule has been satisfied. The graphical user interface is configured to list one or more medications scheduled for administration to the patient and display at the place of administration of the medication in a hospital setting the one or more medication administration comments associated with the selected medication when the program determines that the condition for the compliance rule has been satisfied.

Independent claim 35, as amended herein, recites an article of manufacture comprising a program storage medium readable by a computer and embodying one or more instructions executable by the computer to perform a method for providing one or more medication administration comments for preventing medication administration errors, wherein the one or more medication administration comments are provided at a place of administration of a medication in a hospital setting. The method comprises accepting a medication administrator identification for a medication administrator and accepting a patient identification for a patient

from the medication administrator. A graphical user interface displays a listing one or more medications scheduled for administration to the patient. The selection of one of the listed medications is accepted, the selected medication corresponding with a medication to be administered to the patient by the medication administrator. Additionally, it is determined if a condition for a compliance rule has been satisfied, where the compliance rule relates to the selected medication and has one or more associated medication administration comments for preventing medication administration errors. At the place of administration of the medication in a hospital setting, the one or more medication administration comments associated with the compliance rule is displayed on a display device when the condition has been satisfied.

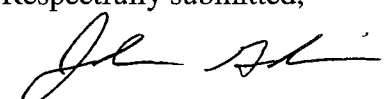
Each of independent claims 18 and 35, as amended herein, include limitations similar to those recited in independent claim 1. As such, it is respectfully submitted that the Akers, Brook, and Engelson references, either alone or in combination, fail to teach or suggest all of the limitations of independent claims 18 and 35 for at least the same reasons as noted above for independent claim 1. Additionally, it is respectfully submitted that there is no suggestion or motivation to combine the references, nor is there a suggestion or motivation to modify the references to achieve the invention of claims 18 and 35. As such, a *prima facie* case of obviousness cannot be established for independent claims 18 and 35, as amended herein, based upon the cited references. *See*, *In re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991). Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 18 and 35 is requested. Furthermore, as claims 18-34 and claims 36-51 depend directly or indirectly from claims 18 and 35, respectively, Applicants request withdrawal of the 103(a) rejection of these claims as well.

CONCLUSION

Each of claims 1–51 is believed to be in condition for allowance, and a timely notice of allowance is solicited. Should it be determined that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicant's undersigned attorney.

It is believed that no fee is due in conjunction with the present Amendment. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required, or credit any overpayment, to Deposit Account No. 19-2112.

Respectfully submitted,



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